

SECOND REGULAR SESSION

HOUSE BILL NO. 1734

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'DONNELL.

4238H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 386.266, 393.1400, 393.1640, and 393.1655, RSMo, and to enact in lieu thereof six new sections relating to public utilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 386.266, 393.1400, 393.1640, and 393.1655, RSMo, are repealed
2 and six new sections enacted in lieu thereof, to be known as sections 386.266, 393.1275,
3 393.1400, 393.1640, 393.1655, and 393.1656, to read as follows:

386.266. 1. Subject to the requirements of this section, any electrical corporation
2 may make an application to the commission to approve rate schedules authorizing an interim
3 energy charge, or periodic rate adjustments outside of general rate proceedings to reflect
4 increases and decreases in its prudently incurred fuel and purchased-power costs, including
5 transportation. The commission may, in accordance with existing law, include in such rate
6 schedules features designed to provide the electrical corporation with incentives to improve
7 the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities.

8 2. Subject to the requirements of this section, any electrical, gas, or water corporation
9 may make an application to the commission to approve rate schedules authorizing periodic
10 rate adjustments outside of general rate proceedings to reflect increases and decreases in its
11 prudently incurred costs, whether capital or expense, to comply with any federal, state, or
12 local environmental law, regulation, or rule. Any rate adjustment made under such rate
13 schedules shall not exceed an annual amount equal to two and one-half percent of the
14 electrical, gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
15 receipts tax, sales tax and other similar pass-through taxes not included in tariffed rates, for
16 regulated services as established in the utility's most recent general rate case or complaint

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 proceeding. In addition to the rate adjustment, the electrical, gas, or water corporation shall
18 be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-
19 through taxes, and such taxes shall not be counted against the two and one-half percent rate
20 adjustment cap. Any costs not recovered as a result of the annual two and one-half percent
21 limitation on rate adjustments may be deferred, at a carrying cost each month equal to the
22 utilities net of tax cost of capital, for recovery in a subsequent year or in the corporation's next
23 general rate case or complaint proceeding.

24 ~~[3. Subject to the requirements of this section, any gas or electrical corporation may~~
25 ~~make an application to the commission to approve rate schedules authorizing periodic rate~~
26 ~~adjustments outside of general rate proceedings to adjust rates of customers in eligible~~
27 ~~customer classes to account for the impact on utility revenues of increases or decreases in~~
28 ~~residential and commercial customer usage due to variations in either weather, conservation,~~
29 ~~or both. No electrical corporation shall make an application to the commission under this~~
30 ~~subsection if such corporation has provided notice to the commission under subsection 5 of~~
31 ~~section 393.1400. For purposes of this section: for electrical corporations, "eligible customer~~
32 ~~classes" means the residential class and classes that are not demand metered; and for gas~~
33 ~~corporations, "eligible customer classes" means the residential class and the smallest general~~
34 ~~service class. As used in this subsection, "revenues" means the revenues recovered through~~
35 ~~base rates, and does not include revenues collected through a rate adjustment mechanism~~
36 ~~authorized by this section or any other provisions of law. This subsection shall apply to~~
37 ~~electrical corporations beginning January 1, 2019, and shall expire for electrical corporations~~
38 ~~on January 1, 2029.~~

39 **4.] 3.** Subject to the requirements of this section, a water corporation with more than
40 eight thousand Missouri retail customers may make an application to the commission to
41 approve rate schedules authorizing periodic rate adjustments outside of general rate
42 proceedings to ensure revenues billed by such water corporation for regulated services equal
43 the revenue requirement for regulated services as established in the water corporation's most
44 recent general rate proceeding or complaint proceeding, excluding any other commission-
45 approved surcharges and gross receipts tax, sales tax, and other similar pass-through taxes not
46 included in tariffed rates, due to any revenue variation resulting from increases or decreases in
47 residential, commercial, public authority, and sale for resale usage.

48 **[5.] 4.** The commission shall have the power to approve, modify, or reject adjustment
49 mechanisms submitted under subsections 1 to **[4] 3** of this section only after providing the
50 opportunity for a full hearing in a general rate proceeding, including a general rate proceeding
51 initiated by complaint. The commission may approve such rate schedules after considering
52 all relevant factors which may affect the costs or overall rates and charges of the corporation,
53 provided that it finds that the adjustment mechanism set forth in the schedules:

54 (1) Is reasonably designed to provide the utility with a sufficient opportunity to earn a
55 fair return on equity;

56 (2) Includes provisions for an annual true-up which shall accurately and appropriately
57 remedy any over- or under-collections, including interest at the utility's short-term borrowing
58 rate, through subsequent rate adjustments or refunds;

59 (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of
60 this section, includes provisions requiring that the utility file a general rate case with the
61 effective date of new rates to be no later than four years after the effective date of the
62 commission order implementing the adjustment mechanism. However, with respect to each
63 mechanism, the four-year period shall not include any periods in which the utility is
64 prohibited from collecting any charges under the adjustment mechanism, or any period for
65 which charges collected under the adjustment mechanism must be fully refunded. In the
66 event a court determines that the adjustment mechanism is unlawful and all moneys collected
67 thereunder are fully refunded, the utility shall be relieved of any obligation under that
68 adjustment mechanism to file a rate case;

69 (4) In the case of an adjustment mechanism submitted under subsection 1 or 2 of this
70 section, includes provisions for prudence reviews of the costs subject to the adjustment
71 mechanism no less frequently than at eighteen-month intervals, and shall require refund of
72 any imprudently incurred costs plus interest at the utility's short-term borrowing rate.

73 ~~[6:]~~ **5.** Once such an adjustment mechanism is approved by the commission under this
74 section, it shall remain in effect until such time as the commission authorizes the
75 modification, extension, or discontinuance of the mechanism in a general rate case or
76 complaint proceeding.

77 ~~[7:]~~ **6.** Any amounts charged under any adjustment mechanism approved by the
78 commission under this section shall be separately disclosed on each customer bill.

79 ~~[8:]~~ **7.** The commission may take into account any change in business risk to the
80 corporation resulting from implementation of the adjustment mechanism in setting the
81 corporation's allowed return in any rate proceeding, in addition to any other changes in
82 business risk experienced by the corporation.

83 ~~[9:]~~ **8.** In the event the commission lawfully approves an incentive- or performance-
84 based plan, such plan shall be binding on the commission for the entire term of the plan. This
85 subsection shall not be construed to authorize or prohibit any incentive- or performance-based
86 plan.

87 ~~[10:]~~ **9.** Prior to August 28, 2005, for subsections 1 ~~[to 3]~~ **and 2** of this section, and
88 upon August 28, 2018, for subsection ~~[4]~~ **3** of this section, the commission shall have the
89 authority to promulgate rules under the provisions of chapter 536 as it deems necessary, to
90 govern the structure, content and operation of such rate adjustments, and the procedure for the

91 submission, frequency, examination, hearing and approval of such rate adjustments. Any
92 electrical, gas, or water corporation may apply for any adjustment mechanism under this
93 section whether or not the commission has promulgated any such rules.

94 ~~[11.]~~ **10.** Nothing contained in this section shall be construed as affecting any existing
95 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism
96 currently approved and in effect.

97 ~~[12.]~~ **11.** Each of the provisions of this section is severable. In the event any
98 provision or subsection of this section is deemed unlawful, all remaining provisions shall
99 remain in effect.

100 ~~[13.]~~ **12.** The provisions of subsections 1 ~~[to 3]~~ **and 2** of this section shall take effect
101 on January 1, 2006, and the commission shall have previously promulgated rules to
102 implement the application process for any rate adjustment mechanism under subsections 1 ~~[to~~
103 **3]** **and 2** of this section prior to the commission issuing an order for any such rate adjustment.

104 ~~[14. The public service commission shall appoint a task force, consisting of all~~
105 ~~interested parties, to study and make recommendations on the cost recovery and~~
106 ~~implementation of conservation and weatherization programs for electrical and gas~~
107 ~~corporations.~~

108 ~~15. (1) Each public utility operating under a mechanism proposed and approved~~
109 ~~under subsection 3 of this section shall quarterly file a surveillance monitoring, consisting of~~
110 ~~five parts. Each part, except the rate base quantifications report, shall contain information for~~
111 ~~the last twelve month period and the last quarter data for total company electric operations~~
112 ~~and Missouri jurisdictional operations. Rate base quantifications shall contain only~~
113 ~~information for the ending date of the period being reported.~~

114 ~~(2) Part one of the surveillance monitoring report shall be the rate base~~
115 ~~quantifications report. The quantification of rate base items in part one shall be consistent~~
116 ~~with the methods or procedures used in the most recent rate proceeding unless otherwise~~
117 ~~specified. The report shall consist of specific rate base quantifications of:~~

- 118 ~~(a) Plant in service;~~
- 119 ~~(b) Reserve for depreciation;~~
- 120 ~~(c) Materials and supplies;~~
- 121 ~~(d) Cash working capital;~~
- 122 ~~(e) Fuel inventory, if applicable;~~
- 123 ~~(f) Prepayments;~~
- 124 ~~(g) Other regulatory assets;~~
- 125 ~~(h) Customer advances;~~
- 126 ~~(i) Customer deposits;~~
- 127 ~~(j) Accumulated deferred income taxes;~~

(k) Any other item included in the electrical corporation's rate base in its most recent rate proceeding;

(l) Net operating income from part three; and

(m) Calculation of the overall return on rate base.

(3) Part two of the surveillance monitoring report shall be the capitalization quantifications report, which shall consist of specific capitalization quantifications of:

(a) Common stock equity (net);

(b) Preferred stock, par or stated value outstanding;

(c) Long-term debt, including current maturities;

(d) Short-term debt; and

(e) Weighted cost of capital, including component costs.

(4) Part three of the surveillance monitoring report shall be the income statement, which shall consist of an income statement containing specific quantification of:

(a) Operating revenues to include sales to industrial, commercial, and residential customers, sales for resale, and other components of total operating revenues;

(b) Operating and maintenance expenses for fuel expense, production expenses, purchased power energy and capacity, if applicable;

(c) Transmission expenses;

(d) Distribution expenses;

(e) Customer accounts expenses;

(f) Customer service and information expenses;

(g) Sales expenses;

(h) Administrative and general expenses;

(i) Depreciation, amortization, and decommissioning expense;

(j) Taxes other than income taxes;

(k) Income taxes; and

(l) Quantification of heating degree and cooling degree days, actual and normal.

(5) Part four of the surveillance monitoring report shall be the jurisdictional allocation factor report, which shall consist of a listing of jurisdictional allocation factors for the rate base, capitalization quantification reports, and income statement.

(6) Part five of the surveillance monitoring report shall be the financial data notes, which shall consist of notes to financial data including, but not limited to:

(a) Out of period adjustments;

(b) Specific quantification of material variances between actual and budget financial performance;

(c) Material variances between current twelve-month period and prior twelve-month period revenue;

- 165 ~~(d) Expense level of items ordered by the commission to be tracked under the order~~
166 ~~establishing the rate adjustment mechanism;~~
167 ~~(e) Budgeted capital projects; and~~
168 ~~(f) Events that materially affect debt or equity surveillance components.~~
169 ~~(7) This subsection shall expire on January 1, 2029.]~~

393.1275. 1. The terms in this section shall have the same meaning as under
2 **section 386.020.**

3 **2. Electrical corporations shall defer to a regulatory asset or liability account**
4 **any difference in state or local property tax expenses actually incurred and those on**
5 **which the revenue requirement used to set rates in the electrical corporation's most**
6 **recently completed general rate proceeding was based. The regulatory asset or liability**
7 **account balances shall be included in the revenue requirement used to set rates through**
8 **an amortization over a reasonable period of time in such corporation's subsequent**
9 **general rate proceedings, without any offset. The commission shall also adjust the rate**
10 **base used to establish the revenue requirement of such corporation to reflect the**
11 **unamortized regulatory asset or liability account balances in such general rate**
12 **proceedings.**

393.1400. 1. For purposes of this section, the following terms shall mean:

- 2 (1) "Commission", the public service commission;
3 (2) "Electrical corporation", the same as defined in section 386.020, but shall not
4 include an electrical corporation as described in subsection 2 of section 393.110;
5 (3) "Qualifying electric plant", all rate-base additions, except rate-base additions for
6 new coal-fired generating units, new nuclear generating units, new natural gas units, or rate-
7 base additions that increase revenues by allowing service to new customer premises;
8 (4) "Rate-base cutoff date", the date rate-base additions are accounted for in a general
9 rate proceeding. In the absence of a commission order that specifies the rate-base cutoff date,
10 such date as reflected in any jointly proposed procedural schedule submitted by the parties in
11 the applicable general rate proceeding, or as otherwise agreed to by such parties, shall be
12 used;
13 (5) "Weighted average cost of capital", the return on rate base used to determine the
14 revenue requirement in the electrical corporation's most recently completed general rate
15 proceeding; provided, that in the absence of a commission determination of the return on rate
16 base within the three-year period prior to August 28, [2018] **2022**, the weighted average cost
17 of capital shall be determined using the electrical corporation's actual capital structure as of
18 December 31, [2017] **2021**, excluding short-term debt, the electrical corporation's actual cost
19 of long-term debt and preferred stock as of December 31, [2017] **2021**, and a cost of common
20 equity of nine and one-half percent.

21 2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical
22 corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense
23 and return associated with all qualifying electric plant recorded to plant-in-service on the
24 utility's books commencing on or after August 28, 2018, if the electrical corporation has made
25 the election provided for by subsection 5 of this section by that date, or on the date such
26 election is made if the election is made after August 28, 2018. In each general rate
27 proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate-
28 base cutoff date shall, **subject only to the cap provided under section 393.1655 or**
29 **393.1656, as applicable,** be included in the electrical corporation's rate base without any
30 offset, reduction, or adjustment based upon consideration of any other factor, other than as
31 provided for in subdivision (2) of this subsection, with the regulatory asset balance arising
32 from deferrals associated with qualifying electric plant placed in service after the rate-base
33 cutoff date to be included in rate base in the next general rate proceeding. ~~[The expiration of~~
34 ~~this section shall not affect the continued inclusion in rate base and amortization of regulatory~~
35 ~~asset balances that arose under this section prior to such expiration.]~~

36 (2) The regulatory asset balances arising under this section shall be adjusted to reflect
37 any prudence disallowances ordered by the commission. The provisions of this section shall
38 not be construed to affect existing law respecting the burdens of production and persuasion in
39 general rate proceedings for rate-base additions.

40 (3) Parts of regulatory asset balances created under this section that are not yet being
41 recovered through rates shall include carrying costs at the electrical corporation's weighted
42 average cost of capital, plus applicable federal, state, and local income or excise taxes.
43 Regulatory asset balances arising under this section and included in rate base shall be
44 recovered in rates through a twenty-year amortization beginning on the date new rates
45 reflecting such amortization take effect.

46 3. (1) Depreciation expense deferred under this section shall account for all
47 qualifying electric plant placed into service less retirements of plant replaced by such
48 qualifying electric plant.

49 (2) Return deferred under this section shall be determined using the weighted average
50 cost of capital applied to the change in plant-related rate base caused by the qualifying electric
51 plant, plus applicable federal, state, and local income or excise taxes. In determining the
52 return deferred, the electrical corporation shall account for changes in all plant-related
53 accumulated deferred income taxes and changes in accumulated depreciation, excluding
54 retirements.

55 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter
56 ~~[while the electrical corporation is allowed to make the deferrals provided for by subsection 2~~
57 ~~of this section],~~ electrical corporations that defer depreciation expense and return authorized

58 under this section shall submit to the commission a five-year capital investment plan setting
59 forth the general categories of capital expenditures the electrical corporation will pursue in
60 furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also
61 include a specific capital investment plan for the first year of the five-year plan consistent
62 with the level of specificity used for annual capital budgeting purposes. For each of the first
63 five years that an electrical corporation ~~[is allowed to make]~~ **makes** the deferrals provided for
64 by subsection 2 of this section, the purchase and installation of smart meters shall constitute
65 no more than six percent of the electrical corporation's total capital expenditures during any
66 given year under the corporation's specific capital investment plan. At least twenty-five
67 percent of the cost of each year's capital investment plan shall be comprised of grid
68 modernization projects, including but not limited to:

- 69 (1) Increased use of digital information and controls technology to improve
70 reliability, security, and efficiency of the electric grid;
- 71 (2) Dynamic optimization of grid operations and resources, with full cybersecurity;
- 72 (3) Deployment and integration of distributed resources and generation, including
73 renewable resources;
- 74 (4) Development and incorporation of demand response, demand-side resources, and
75 energy-efficiency resources;
- 76 (5) Deployment of smart technologies (real-time, automated, interactive technologies
77 that optimize the physical operation of appliances and consumer devices) for metering,
78 communications, concerning grid operations and status, and distribution automation;
- 79 (6) Integration of smart appliances and devices;
- 80 (7) Deployment and integration of advanced electricity storage and peak-shaving
81 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage air
82 conditioning;
- 83 (8) Provision of timely information and control options to consumer;
- 84 (9) Development of standards for communication and interoperability of appliances
85 and equipment connected to the electric grid, including the infrastructure serving the grid; and
86 (10) Identification and lowering of unreasonable or unnecessary barriers to adoption
87 of smart grid technologies, practices, and services.

88
89 Project specific information need not be included for the five-year period covered by the plan.
90 Within thirty days of the filing of any capital investment plan or annual update to an existing
91 plan, the electrical corporation shall host a public stakeholder meeting to answer questions
92 and receive feedback about the plan. After feedback is received, the electrical corporation
93 shall file a notice with the commission of any modifications to the capital investment plan it
94 has accepted. Changes to the plan, its implementation, or the level of investments made shall

95 not constitute evidence of imprudence of the investments made under such plan. The
96 submission of a capital investment plan under this section shall not affect in any way the
97 commission's authority with respect to the grant or denial of a certificate of convenience and
98 necessity under section 393.170. By February twenty-eighth following each year in which
99 the electrical corporation submits a capital investment plan, the electrical corporation shall
100 submit a report to the commission detailing actual capital investments made the previous year.

101 5. This section shall only apply to any electrical corporation that has filed a notice
102 with the commission of the electrical corporation's election to make the deferrals for which
103 this section provides. ~~[No electrical corporation shall file a notice with the commission under~~
104 ~~this subsection if such corporation has made an application under subsection 3 of section~~
105 ~~386.266, and such application has been approved. An electrical corporation's election shall~~
106 ~~allow it to make the deferrals provided for by subsection 2 of this section until December 31,~~
107 ~~2023, unless the electrical corporation requests and the commission approves the continuation~~
108 ~~of such deferrals beyond that date and approves continuation of the discounts authorized by~~
109 ~~section 393.1640 beyond that date as hereinafter provided. An electrical corporation that~~
110 ~~wishes to continue to make the deferrals provided for by subsection 2 of this section from~~
111 ~~January 1, 2024, through December 31, 2028, shall obtain the commission's approval to do~~
112 ~~so, shall be subject to the compound annual growth rate limitations set forth under section~~
113 ~~393.1655, and shall also obtain the commission's approval to continue to provide the~~
114 ~~discounts authorized by section 393.1640 in a commission order issued on or before~~
115 ~~December 31, 2023. The commission shall have the authority to grant or deny such approval~~
116 ~~based upon the commission's evaluation of the costs and benefits of such continuation to~~
117 ~~electrical corporations and consumers, but shall not be authorized to condition such approval~~
118 ~~or otherwise modify the deferrals authorized by subsection 2 of this section, or the discounts~~
119 ~~authorized by section 393.1640. In deciding whether to extend the program for an additional~~
120 ~~five years, the commission shall develop an objective analytical framework to determine~~
121 ~~whether there is a continuing need. The commission shall make a finding about whether there~~
122 ~~is a continuing need after hearing. Failure to obtain such commission approval shall not~~
123 ~~affect deferrals made through December 31, 2023, or the regulatory and ratemaking treatment~~
124 ~~of the regulatory assets arising from such deferrals as provided for by this section.~~

125 6. ~~This section shall expire on December 31, 2028, except that the amortization of the~~
126 ~~regulatory asset balances arising under this section shall continue to be reflected in the~~
127 ~~electrical corporation's rates and remaining regulatory asset balances shall be included in the~~
128 ~~electrical corporation's rate base consistent with the ratemaking treatment and amortization~~
129 ~~previously approved by the commission pursuant to this section.]~~

393.1640. 1. Subject to the limitations provided for in subsection [2] 4 of this
2 section, and upon proper application by an eligible customer prior to public announcement of

3 a growth project, a new or existing account meeting the ~~[following]~~ **criteria in this subsection**
4 shall ~~[be considered]~~ **qualify** for ~~[qualification for]~~ **one of the [discount] discounts** set forth
5 in **subdivision (1) or (2) of this subsection**~~[if]:~~

6 (1) ~~[The customer adds incremental load,]~~ **When the new load is reasonably**
7 **projected to be at least three hundred kilowatts but not more than ten megawatts and**
8 **have a load factor of at least fifty-five percent, the discount shall equal thirty-five**
9 **percent and shall apply for five years, provided that when the new load exceeds two**
10 **megawatts, the discount shall equal thirty percent and the term shall be extended from**
11 **five years to seven years; or**

12 (2) **When the new load is reasonably projected to be more than ten megawatts**
13 **and have a load factor of at least fifty-five percent, the discount percentage, rounded to**
14 **the nearest one percent, shall be determined so that the applicant's total bill is expected**
15 **to provide revenues equal to one hundred twenty percent of the electrical corporation's**
16 **variable cost to serve the applicant's account or accounts that are to receive the discount**
17 **aggregate and shall apply for ten years.**

18 **2. To obtain one of the discounts set forth in subdivision (1) or (2) of subsection 1**
19 **of this section, the customer's load shall be incremental, net of any offsetting load**
20 **reductions due to the termination of other accounts of the customer or an affiliate of the**
21 **customer within twelve months prior to the commencement of service to the new load, [with**
22 ~~average monthly demand that is reasonably projected to be at least three hundred kilowatts~~
23 ~~with a load factor of at least fifty five percent within two years after the date the application is~~
24 ~~submitted;~~

25 ~~(2)]~~ **the customer [receives local, regional, or state] shall receive an economic**
26 **development [incentives] incentive from the local, regional, state, or federal government,**
27 **or from an agency or program of any such government, in conjunction with the**
28 **incremental load[;] , and**

29 ~~[(3)]~~ **the customer [meets] shall meet** the criteria set forth in the electrical
30 corporation's economic development rider tariff sheet, as approved by the commission, that
31 are not inconsistent with the provisions of this subsection.

32 **3. The applicable discount shall be a percentage applied to all base-rate components**
33 **of the bill. [The percentage shall be fixed for each year of service under the discount for a**
34 ~~period of up to five years. Subject to the remaining provisions of this subsection, the average~~
35 ~~of the annual discount percentages shall equal forty percent and shall not be less than thirty~~
36 ~~percent nor more than fifty percent in any year.]~~ **The discount shall be applied to such**
37 **incremental load from the date when the meter has been permanently set until the date that**
38 **such incremental load no longer meets the criteria required to qualify for the discount, as**
39 **determined under the provisions of subsection [2] 4 of this section. An eligible customer**

40 shall also receive a ten percent discount of all base-rate components of the bill applied to such
41 incremental load for **an additional** one year ~~[after]~~ **period beyond** the ~~[initial]~~ **period during**
42 **which the applicable** discount ~~[period ends]~~ **under subdivision (1) or (2) of subsection 1 of**
43 **this section applies** if the electrical corporation determines that the customer is taking service
44 from an under-utilized circuit. ~~[In no event shall a customer receive a discount under this~~
45 ~~subsection after December 31, 2028.]~~ The electrical corporation may include in its tariff
46 additional or alternative terms and conditions to a customer's utilization of the discount,
47 subject to approval of such terms and conditions by the commission. The customer, on forms
48 supplied by the electrical corporation, shall apply for the **applicable** discount provided for by
49 this subsection at least ninety days prior to the date the customer requests that the incremental
50 demand receive **one of** the discounts provided for by this subsection **and shall enter into a**
51 **written percentages and other pertinent details.** If the incremental demand is not
52 separately metered, the electrical corporation's determination of the incremental demand shall
53 control. **The electrical corporation shall verify the customer's incremental demand**
54 **annually to determine continued qualification for the applicable discount.**
55 Notwithstanding the foregoing provisions of this subsection, the cents-per-kilowatt-hour
56 realization resulting from application of any ~~[such]~~ **of the** discounted ~~[rate]~~ **rates** as
57 calculated shall be higher than the electrical corporation's variable cost to serve such accounts
58 in aggregate and the **applicable** discounted rate also shall make a positive contribution to
59 fixed costs associated with such service. If in a subsequent general rate proceeding the
60 commission determines that application of such discounted rate is not adequate to cover the
61 electrical corporation's variable cost to serve ~~[such]~~ **the accounts in question** and provide a
62 positive contribution to fixed costs then the commission shall increase the rate **for those**
63 **accounts** prospectively to the extent necessary to do so.

64 ~~[2-]~~ 4. In each general rate proceeding concluded after August 28, ~~[2018]~~ **2022**, the
65 ~~[reduced level of]~~ **difference in** revenues ~~[arising from]~~ **generated by applying** the
66 ~~[application of]~~ discounted rates provided for by ~~[subsection 1 of]~~ **this section and the**
67 **revenues that would have been generated without such discounts shall not be imputed**
68 **into the electrical corporation's revenue requirement. Such revenue requirement shall**
69 **be set using the revenues generated by the discounted rates, and the impact of the**
70 **discounts provided for by this section** shall be allocated to all the electrical corporation's
71 customer classes, including the classes with customers that qualify for discounts under this
72 section~~[—This increase shall be implemented]~~, through the application of a uniform
73 percentage adjustment to the revenue requirement responsibility of all customer classes. To
74 qualify for the discounted rates provided for in this section, ~~[if incremental load is separately~~
75 ~~metered,]~~ customers shall meet the applicable criteria within twenty-four months ~~[after the~~
76 ~~date the meter is permanently set]~~ **of initially receiving discounts** based on metering data for

77 calendar months thirteen through twenty-four and annually thereafter. If such data indicates
78 that the customer did not meet ~~[the criteria]~~ **both the three hundred kilowatt and fifty-five**
79 **percent load factor requirements** for any applicable twelve-month period, it shall thereafter
80 no longer qualify for ~~[the]~~ a discounted rate. **For customers receiving service under**
81 **subdivision (2) of subsection 1 of this section, if after the fourth year the demand has not**
82 **exceeded ten thousand kilowatts during any twelve-month period, the customer's**
83 **qualification shall revert to subdivision (1) of subsection 1 of this section.** The provisions
84 of this section do not supersede or limit the ability of an electrical corporation to continue to
85 utilize economic development or retention tariffs previously approved by the commission that
86 are in effect on August 28, ~~[2018]~~ **2022**. If, however, a customer is receiving any economic
87 development or retention-related discounts as of the date it would otherwise qualify for a
88 discount provided for by this section, the customer shall agree to relinquish the prior discount
89 concurrently with the date it begins to receive a discount under this section; otherwise, the
90 customer shall not be eligible to receive any discount under this section. Customer demand
91 existing at the time the customer begins to receive discounted rates under this section shall not
92 constitute incremental demand. The discounted rates provided for by this section apply only
93 to base-rate components, with the charges or credits arising from any rate adjustment
94 mechanism authorized by law to be applied to customers qualifying for discounted rates
95 under this section in the same manner as such rate adjustments would apply in the absence of
96 this section.

97 ~~[3.]~~ **5.** For purposes of this section, "electrical corporation" shall mean the same as
98 defined in section 386.020, but shall not include an electrical corporation as described in
99 subsection 2 of section 393.110.

100 ~~[4. This section shall expire on December 31, 2028, provided, that unless the~~
101 ~~electrical corporation has timely obtained the order provided for by subsection 5 of section~~
102 ~~393.1400, the electrical corporation's customers shall, after December 31, 2023, no longer~~
103 ~~receive the discounts provided under this section.]~~

393.1655. 1. This section applies to an electrical corporation that has elected to
2 exercise any option under section 393.1400 and that has more than two hundred thousand
3 Missouri retail customers in 2018, and shall continue to apply to such electrical corporation
4 until December 31, 2023~~], if the commission has not issued an order approving continuation~~
5 ~~of the deferrals authorized by subsection 2 of section 393.1400, and continuation of the~~
6 ~~discounts authorized by section 393.1640 as authorized by subsection 5 of section 393.1400~~
7 ~~with respect to the electrical corporation, or until December 31, 2028, if the commission has~~
8 ~~issued such an order with respect to the electrical corporation].~~

9 2. Notwithstanding any other provision of law and except as otherwise provided for
10 by this section, an electrical corporation's base rates shall be held constant for a period

11 starting on the date new base rates were established in the electrical corporation's last general
12 rate proceeding concluded prior to the date the electrical corporation gave notice under
13 subsection 5 of section 393.1400 and ending on the third anniversary of that date, unless a
14 force majeure event as determined by the commission occurs. Whether a force majeure event
15 has occurred shall be subject to commission review and approval in a general rate proceeding,
16 and shall not preclude the commission from reviewing the prudence of any revenue
17 reductions or costs incurred during any proceeding to set rates. This subsection shall not
18 affect the electrical corporation's ability to adjust its nonbase rates during the three-year
19 period provided for in this subsection as authorized by its commission-approved rate
20 adjustment mechanisms arising under section 386.266, 393.1030, or 393.1075, or as
21 authorized by any other rate adjustment mechanism authorized by law.

22 3. This subsection shall apply to electrical corporations that have a general rate
23 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
24 2018. If the difference between (a) the electrical corporation's average overall rate at any
25 point in time while this section applies to the electrical corporation, and (b) the electrical
26 corporation's average overall rate as of the date new base rates are set in the electrical
27 corporation's most recent general rate proceeding concluded prior to the date the electrical
28 corporation gave notice under section 393.1400, reflects a compound annual growth rate of
29 more than three percent, the electrical corporation shall not recover any amount in excess of
30 such three percent as a performance penalty.

31 4. This section shall apply to electrical corporations that do not have a general rate
32 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
33 2018. If the difference between (a) the electrical corporation's average overall rate at any
34 point in time while this section applies to the electrical corporation, and (b) the average of (i)
35 the electrical corporation's average overall rate as of the date new base rates are set in the
36 electrical corporation's most recent general rate proceeding concluded prior to the date the
37 electrical corporation gave notice under section 393.1400, and (ii) the electrical corporation's
38 average overall rate set under section 393.137, reflects a compound annual growth rate of
39 more than two and eighty-five hundredths percent, the electrical corporation shall not recover
40 any amount in excess of such two and eighty-five hundredths percent as a performance
41 penalty.

42 5. If a change in any rates charged under a rate adjustment mechanism approved by
43 the commission under sections 386.266 and 393.1030 would cause an electrical corporation's
44 average overall rate to exceed the compound annual growth rate limitation set forth in
45 subsection 3 or 4 of this section, the electrical corporation shall reduce the rates charged
46 under that rate adjustment mechanism in an amount sufficient to ensure that the compound
47 annual growth rate limitation set forth in subsection 3 or 4 of this section is not exceeded due

48 to the application of the rate charged under such mechanism and the performance penalties
49 under such subsections are not triggered. Sums not recovered under any such mechanism
50 because of any reduction in rates under such a mechanism pursuant to this subsection shall be
51 deferred to and included in the regulatory asset arising under section 393.1400 or, if
52 applicable, under the regulatory and ratemaking treatment ordered by the commission under
53 section 393.1400, and recovered through an amortization in base rates in the same manner as
54 deferrals under that section or order are recovered in base rates.

55 6. If the difference between (a) the electrical corporation's class average overall rate at
56 any point in time while this section applies to the electrical corporation, and (b) the electrical
57 corporation's class average overall rate as of the date rates are set in the electrical
58 corporation's most recent general rate proceeding concluded prior to the date the electrical
59 corporation gave notice under subsection 5 of section 393.1400, reflects a compound annual
60 growth rate of more than two percent for the large power service rate class, the class average
61 overall rate shall increase by an amount so that the increase shall equal a compound annual
62 growth rate of two percent over such period for such large power service rate class, with the
63 reduced revenues arising from limiting the large power service class average overall rate
64 increase to two percent to be allocated to all the electrical corporation's other customer classes
65 through the application of a uniform percentage adjustment to the revenue requirement
66 responsibility of all the other customer classes.

67 7. For purposes of this section, the following terms shall mean:

68 (1) "Average base rate", a rate calculated by dividing the total retail revenue
69 requirement for all the electrical corporation's rate classes by the total sales volumes stated in
70 kilowatt-hours for all such rate classes used to set rates in the applicable general rate
71 proceeding, exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

72 (2) "Average overall rate", a rate equal to the sum of the average base rate and the
73 average rider rate;

74 (3) "Average rider rate", a rate calculated by dividing the total of the sums to be
75 recovered from all customer classes under the electrical corporation's rate adjustment
76 mechanisms in place other than a rate adjustment mechanism under section 393.1075 by the
77 total sales volumes stated in kilowatt-hours for all of the electrical corporation's rate classes
78 used to set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales
79 tax, and other similar pass-through taxes;

80 (4) "Class average base rate", a rate calculated by dividing the retail revenue
81 requirement from the applicable general rate proceeding that is allocated to the electrical
82 corporation's large power service rate class in that general rate proceeding, by the total sales
83 volumes stated in kilowatt-hours for that class used to set rates in that general rate proceeding,
84 exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

85 (5) "Class average overall rate", a rate equal to the sum of the class average base rate
86 and the class average rider rate;

87 (6) "Class average rider rate", a rate calculated by dividing the total of the sums
88 allocated for recovery from the large power service rate class under the electrical
89 corporation's rate adjustment mechanisms in place other than a rate adjustment mechanism
90 under section 393.1075 by the total sales volumes stated in kilowatt-hours for that class used
91 to set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales tax,
92 and other similar pass-through taxes;

93 (7) "Force majeure event", an event or circumstance that occurs as a result of a
94 weather event, an act of God, war, terrorism, or other event which threatens the financial
95 integrity of the electrical corporation that causes a reduction in revenues, an increase in the
96 cost of providing electrical service, or some combination thereof, and the event has an
97 associated fiscal impact on the electrical corporation's operations equal to three percent or
98 greater of the total revenue requirement established in the electrical corporation's last general
99 rate proceeding after taking into account the financial impact specified in section 393.137.
100 Any force majeure event shall be subject to commission review and approval, and shall not
101 preclude the commission from reviewing the prudence of any revenue reductions or costs
102 incurred during any proceeding to set rates;

103 (8) "Large power service rate class", the rate class of each corporation that requires
104 the highest minimum monthly billing demand of all of the electrical corporation's rate classes
105 in order to qualify as a member of such rate class, and that applies to qualifying customers
106 only if they utilize the electrical corporation's distribution system.

393.1656. 1. For purposes of this section, the following terms shall mean:

2 (1) "Commission", the public service commission;

3 (2) "Electrical corporation", the same as defined in section 386.020, but shall not
4 include an electrical corporation as described in subsection 2 of section 393.110;

5 (3) "Rate-base cutoff date", the date rate-base additions are accounted for in a
6 general rate proceeding. In the absence of a commission order that specifies the rate-
7 base cutoff date, such date as reflected in any jointly proposed procedural schedule
8 submitted by the parties in the applicable general rate proceeding, or as otherwise
9 agreed to by such parties, shall be used;

10 (4) "Revenue requirement impact cap", the product of one-twelfth of two and
11 one-half percent multiplied by the number of months that have elapsed from the
12 effective date of new base rates in the electrical corporation's most recently completed
13 general rate proceeding to the effective date of new bases rates in the general rate
14 proceeding in which the cap is being applied, with that product to be multiplied by the
15 retail revenue requirement used to set base rates in the electrical corporation's most

16 recently completed general rate proceeding concluded prior to the general rate
17 proceeding in which the cap is being applied;

18 (5) "Subject section 393.1400 regulatory asset", deferrals under section 393.1400
19 from the rate-base cutoff date in the electrical corporation's prior general rate
20 proceeding to the rate-base cutoff date in the current general rate proceeding in which
21 the cap reflected in subsection 2 of this section is being applied.

22 2. This section shall apply after December 31, 2023, to an electrical corporation
23 that has elected to exercise any option under section 393.1400.

24 3. That part of the electrical corporation's retail revenue requirement used to set
25 the electrical corporation's base rates in each of the electrical corporation's general rate
26 proceedings that are concluded on or after August 31, 2023, that consists of a revenue
27 requirement arising from inclusion in rate base of the section 393.1400 regulatory asset
28 balance shall not exceed the revenue requirement impact cap. If inclusion in rate base
29 of the full balance of the subject section 393.1400 regulatory asset would cause the
30 electrical corporation to exceed the revenue requirement impact cap, that part of the
31 balance necessary to prevent inclusion of the full balance from causing the revenue
32 requirement impact cap to be exceeded shall not be included in rate base and the section
33 393.1400 regulatory asset balance shall be reduced accordingly as a penalty.

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